



PUBLIC SERVICE
EMPLOYEE RELATIONS BOARD

1980-81

annual report





PUBLIC SERVICE
EMPLOYEE RELATIONS BOARD

ANNUAL REPORT
for the
FISCAL YEAR ENDING MARCH 31, 1981

PUBLISHED BY AUTHORITY OF THE
PUBLIC SERVICE EMPLOYEE RELATIONS BOARD

EDMONTON, ALBERTA

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To His Honour
Frank Lynch-Staunton
Lieutenant Governor of the Province of Alberta

May it please your Honour,

On behalf of the Public Service Employee Relations Board, I respectfully submit to you the Annual Report for the period from April 1, 1980 to March 31, 1981, pursuant to the requirements of Section 77 of The Public Service Employee Relations Act, Statutes of Alberta 1977, Chapter 40 and amendments thereto.

Respectfully submitted,

Neil Crawford
Government House Leader

To: The Honourable Neil Crawford
Government House Leader

Sir:

I have the honour, on behalf of the Public Service Employee Relations Board, to submit the Annual Report for the fiscal period from April 1, 1980 to March 31, 1981.

Respectfully yours,

D. Blair Mason
Chairman



personnel

PUBLIC SERVICE EMPLOYEE RELATIONS BOARD

Chairman — D. Blair Mason, Q.C.

Alternate Chairman — E. L. Bunnell

Members —

Patrick French

Agnes Helstein

S. Michael Marlowe

Gordon F. May

Executive Director — John F. Elsinga

Secretary — Gordon P. Procinsky

**ANNUAL REPORT
OF THE
PUBLIC SERVICE EMPLOYEE RELATIONS BOARD
FOR FISCAL PERIOD ENDING MARCH 31, 1981**

introduction

The Public Service Employee Relations Act Chapter 40 Statutes of Alberta 1977 came into force on September 22, 1977 upon its proclamation by Order in Council 965/77.

The Act repealed The Crown Agencies Employee Relations Act and certain sections of The Public Service Act, including the Employee Relations part which then governed the bargaining procedures between the Government of Alberta and its general service employees.

The Public Service Employee Relations Act establishes a scheme for collective bargaining with final determination of arbitral items, subject to statutory exceptions, through binding arbitration without the right to strike or lock-out. Mediation in interest arbitration disputes is provided for by the Act on agreement by the parties with the appointment of a mediator by the Board. The Act also provides a framework for the adjudication of differences as to the interpretation, application or operation of a collective agreement on submission to a single adjudicator by agreement of the parties or a three member board selected either by the agreement of the parties or appointed by the Board.

While the Act is similar in many respects to the Labour Relations Act, which governs collective bargaining in private industry in the province, there are also significant differences between the statutes. Unlike the Labour Relations Act, for example, The Public Service Employee Relations Act prohibits strikes and lockouts and provides for the resolution of arbitral items by means of binding arbitration.

overview

As indicated in the following statistics, the 1980-81 fiscal year was an active one for the Board. The data reflects a heavy schedule of negotiations for the renewal of the many and major collective agreements expiring during the year.

The twenty-five (25) days of hearings, held by the Board during this year, represents a substantial increase over previous periods. While this increase may partly be attributed to the heavy volume of contract negotiations, it is also indicative of the increasingly technical nature of the submissions being presented to the Board in the conduct of proceedings under the Act.

On an informal basis, the Board's staff was able during the year to assist in the resolution of more than thirty (30) requests for assistance from individual public sector employees who alleged they had not received full wage, vacation pay or other entitlements or claimed they had been improperly dismissed.

application

The Public Service Employee Relations Act applies to approximately 50,000 persons employed by the Crown in right of Alberta. This number also includes persons employed by corporations, commissions, boards, councils or other bodies, all or a majority of whose members or directors are designated by an Act of the Legislature by the Lieutenant Governor in Council or by a Minister of the Crown who is empowered to make such appointments.

The majority of persons to whom the Act applies are employed in one of some twenty-six provincial government departments. For collective bargaining purposes, these employees are allocated to one of the following bargaining units: —

Division 1 — Administrative and Support Services

(i.e. Accounting Clerk, Stenographer, Stockkeeper, Bindery Equipment Operator, etc.)

Division 2 — Administrative and Program Services

(i.e. Assessors, Public Affairs Officer, Home Economist, Consumer Relations Officer, etc.)

Division 3 — Correctional and Regulatory Services

(i.e. Patrol Officer, Transport Officer, Correctional Officer, etc.)

Division 4 — Trades and Related Services

(i.e. Stage Carpenter, Construction Inspector, Audio Technician, Welder, Building Standards Officer, etc.)

Division 5 — Natural Resources Conservation Services

(i.e. Fish and Wildlife Officer, Biologist, Forester, Park Ranger, etc.)

Division 6 — Social Services Division

(i.e. Native Liaison Officer, Child Care Counsellor, Social Worker, Psychological Assistant, etc.)

Division 7 — Institutional and Patient Support Services

(i.e. Institutional Service Worker, Kitchen Helper, Laundry Supervisor, Garment Worker, etc.)

Division 8 — Educational Services

(i.e. Learning Resources Officer, Educational Counsellor, Instructor, Teacher, etc.)

Division 9 — Health and Therapy Support Services

(i.e. Child Care Attendant, Houseparent, Institutional Aide, etc.)

Division 10 — Medical and Rehabilitative Services

(i.e. Psychiatric Nurse, Occupational Therapist, Dietitian, X-Ray Technician, etc.)

Division 11 — General and Field Support

(i.e. Building Superintendent, Equipment Operator, Caretaker, Gardener, Driver Examiner, etc.)

Division 12 — Technical Services

(i.e. Museologist, Interior Designer, Photographer, Radiation Health Officer, Archives Technician, etc.)

Other employers and their employees to whom the Act applies include the following:

Corporations — Alberta Home Mortgage Corporation

— Alberta Housing Corporation

— Alberta Oil Sands Technology and Research Authority

— Alberta Opportunity Company

— Hail Crop Insurance Corporation

Commissions — Alberta Alcoholism and Drug Abuse Commission

— Alberta Petroleum Marketing Commission

— Alberta Racing Commission

Universities and Colleges (academic staff excluded)

— Athabasca University

— University of Alberta

— University of Calgary

— University of Lethbridge

— Banff Centre

— Fairview College

— Grande Prairie Regional College

— Grant MacEwan Community College

— Keyano College

— Lakeland College

— Lethbridge Community College

— Medicine Hat College

— Mount Royal College

— Olds College

— Red Deer College

Hospitals	— Alberta Children's Provincial General Hospital
	— Foothills Provincial General Hospital
	— Glenrose Provincial General Hospital
	— The Provincial Cancer Hospitals Board
	— University Hospitals Board
Boards	— Alberta Liquor Control Board
	— Teachers' Retirement Fund Board
	— Workers' Compensation Board
Councils	— Alberta Research Council

administration and personnel

The Act is administered by the Public Service Employee Relations Board. The Board is comprised of four (4) members plus a Chairman and an Alternate Chairman. All are appointed to serve on a part-time basis, with tenure of office expiring September 21, 1981.

During the past fiscal year, Angus MacDonald, a charter member of the Board, resigned in order to accept an appointment as a member of the Alberta Labour Relations Board.

S. Michael Marlowe, who retired during this year from his position as Executive Director of the Board, was appointed as a Board member to replace Mr. Macdonald. The position of Executive Director was filled with the appointment of John F. Elsinga, effective October 1, 1980.

significant cases

(1) UNIVERSITY HOSPITAL BOARD, EDMONTON, ALBERTA AND PROFESSIONAL ASSOCIATION OF INTERNS AND RESIDENTS OF ALBERTA, EDMONTON, ALBERTA

On January 24, 1980 the Professional Association of Interns and Residents of Alberta applied for certification from the Board as a bargaining agent for interns and residents of the University Hospital Board, Edmonton, Alberta.

The principal issues raised by this application and to be determined by the Board were the following: —

- (a) whether the persons affected by the application were employees within the meaning of The Public Service Employee Relations Act;
- (b) whether the Applicant Association was a proper bargaining agent;
- (c) whether the unit of employees applied for was an appropriate unit for collective bargaining;
- (d) whether the application was timely;
- (e) whether the persons affected by the application were employees of the University Hospital Board within the meaning of the Act.

Extensive hearings and much evidence marked the processing of this application.

When handed down in October of 1980, the Board's decision held that the interns and residents affected by the application were not employees of the University Hospital Board within the meaning of the Act and regarded such persons principally as students. Furthermore, the Board found that interns affected by the application could not be considered members of the medical profession able to practise their profession as a condition of employment when they had not obtained licensure to practise general medicine.

In the circumstances, the Board refused to certify the Association as a bargaining agent.

(2) BOARD OF GOVERNORS, OLDS COLLEGE, OLDS, ALBERTA AND THE ALBERTA UNION OF PROVINCIAL EMPLOYEES, EDMONTON, ALBERTA

On July 16, 1978, the Board certified The Alberta Union of Provincial Employees as bargaining agent for a unit of employees of the Board of Governors, Olds College, described in Certificate No. 6 - 78 as "All employees of the Board of Governors of Olds College when employed in general support services."

Subsequent bargaining between the parties failed to produce a collective agreement and in November 1978, the College filed with the Board an application to establish an arbitration board pursuant to Section 49 of the Act. It listed nineteen (19) items as being in dispute that could not be resolved. The Union responded by filing a list of over fifty (50) items in dispute that could not be resolved.

A hearing into the application was held in December 1978, at which the parties agreed to the appointment of a mediator to assist them in collective bargaining and the request to establish an arbitration board was withdrawn. In January 1979, the mediator reported that he was unable to effect a settlement.

A second application to establish an arbitration board was received from the Union in late January 1979, claiming over fifty (50) items as being in dispute. The College, in response, claimed over twenty (20) items as being in dispute. The College also claimed that approximately twenty-four (24) articles submitted by the Union were not arbitral pursuant to Section 48 of the Act, and therefore could not be considered or included in a collective agreement by an arbitration board.

Following a hearing and after lengthy deliberations, the Board issued a decision in April 1979, listing which items claimed in dispute were arbitral and which items were not.

By Notice of Motion filed with the Court of Queen's Bench in May 1979, counsel for the College sought to have the Board's decision quashed in respect of twenty-six (26) sub-articles on the grounds that the Board had erred in finding those items arbitral within the meaning of The Public Service Employee Relations Act. This number was reduced to twenty (20) when the Union withdrew six (6) of those articles for reference to the Court.

The application was heard in July 1979 and resulted in a decision by the Presiding Judge to quash the Board's decision in respect of twelve (12) sub-articles, finding that these were not arbitral pursuant to Section 48 of the Act.

In August 1979, the Board initiated an appeal from that judgement, as did the affected Union. The Court of Appeal of Alberta heard the matter in March of 1980 and rendered its judgement in August of that year. The judgement allowed the appeal in part, finding that of the twelve (12) sub-articles quashed by the lower Court, four (4) were arbitral and eight (8) were not.

In November 1980, the Board and the Union applied to the Supreme Court of Canada for leave to appeal the judgement of the Alberta Court of Appeal. Such leave was granted by the Supreme Court in December 1980, and the matter is to be heard during 1981.

ANNUAL STATISTICS AND COMPARATIVE DATA

April 1, 1980 to March 31, 1981

Section of Act	Nature of Application		Disposition		
			1978/79	1979/80	1980/81
9	Determinations	Granted	0	1	8
		Dismissed	0	3	3
		Withdrawn	4	1	4
		Outstanding	0	0	5
11	Reconsideration	Granted	0	1	0
		Refused/Dismissed	2	0	0
		Withdrawn	2	0	0
		Outstanding	0	0	0
25	Certification	Granted	12	2	4
		Refused	16	8	9
		Outstanding	3	2	0
32	Revocation	Granted	0	0	0
		Refused	1	0	0
		Outstanding	0	0	0
37	Consent to Waive	Granted	0	0	1
		Refused	0	1	0
		Withdrawn	0	0	2
		Outstanding	0	2	0
39	Failure to Bargain in Good Faith	Granted	0	0	0
		Refused/Dismissed	0	0	2
		Withdrawn	0	1	1
		Outstanding	1	2	0
46	Appointment of Mediator	Granted	5	4	4
		Withdrawn	1	0	1
		Outstanding	0	0	0
49	Establish Arbitration Board	Granted	4	1	7
		Refused	0	3	1
		Withdrawn	7	1	6
		Outstanding	1	5	0
52	Appointment Chairman & Member Arbitration Board	Granted	0	1	4
		Refused	0	0	0
		Withdrawn	0	0	0
		Outstanding	0	0	0

64	Appointment of Adjudicator	Granted	0	2	4
		Withdrawn	1	3	0
		Refused	0	4	0
		Outstanding	0	0	0
65	Speeding Decision of Adjudicator	Settled	0	0	0
		Outstanding	0	0	0
74	Unfair Practice Complaints	Granted	0	0	0
		Dismissed	1	2	1
		Withdrawn	2	0	1
		Outstanding	0	0	

Days of Board Hearings	— 1978/79	19 days
	— 1979/80	15 days
	— 1980/81	25 days

Total number of employees affected by Certification		
— 1978/79	5,598	
— 1979/80	1,219	
— 1980/81	594	

Collective Agreements Filed—	1978/79	36
	1979/80	43
	1980/81	36 *

Total applications disposed of		
— 1978/79	58	
— 1979/80	39	
— 1980/81	63	

Total applications outstanding		
— 1978/79	5	
— 1979/80	11	
— 1980/81	5	

* The estimated number of employees affected by these agreements is 47,000.

in appreciation

The Board takes this opportunity to publicly express its gratitude to Angus MacDonald for his valued contribution as a member and to Mike Marlowe for his dedicated service as Executive Director of the Board.

The Board also extends its appreciation to the Honourable Neil Crawford and his Executive Assistant, Mr. John Scrimshaw for their co-operation throughout this year.

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